OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

ALBERTA
2002 - 2003 ANNUAL REPORT

The Purposes of the Freedom of Information and Protection of Privacy Act

The purposes of the *Freedom of Information and Protection of Privacy Act* according to Section 2 of the Act are:

a) to allow any person a right of access to the records in the custody or under the control of a public body, subject to limited and specific exceptions as set out in the Act,

b) to control the manner in which a public body may collect personal information from individuals, to control the use that a public body may make of that information and to control the disclosure by a public body of that information,

c) to allow individuals, subject to limited and specific exceptions as set out in the Act, a right of access to personal information about themselves that is held by a public body,

d) to allow individuals a right to request corrections to personal information about themselves that is held by a public body, and

e) to provide for independent reviews of decisions made by public bodies under this Act and the resolution of complaints under this Act.

The Purposes of the Health Information Act

The purposes of the *Health Information Act* according to Section 2 of the Act are:

a) to establish strong and effective mechanisms to protect the privacy of individuals with respect to their health information and to protect the confidentiality of that information,

b) to enable health information to be shared and accessed, where appropriate, to provide health services and to manage the health system,

c) to prescribe rules for the collection, use and disclosure of health information, which are to be carried out in the most limited manner and with the highest degree of anonymity that is possible in the circumstances,

d) to provide individuals with a right of access to health information about themselves, subject to limited and specific exceptions as set out in this Act,

e) to provide individuals with a right to request correction or amendment of health information about themselves,

f) to establish strong and effective remedies for contraventions of this Act, and

g) to provide for independent reviews of decisions made by custodians under this Act and the resolution of complaints under this Act.

Copies of this report are available from:

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November 28, 2003

Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

I am pleased to submit to you the Annual Report of the Office of the Information and Privacy Commissioner, covering the period from April 1, 2002 to March 31, 2003.

This report is submitted under Section 63(1) of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, Chapter F-25, and Section 95(1) of the *Health Information Act*, R.S.A. 2000, Chapter H-5.

Yours truly,

Franklin J. Work, Q.C.
Information and Privacy Commissioner

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COMMISSIONER'S MESSAGE

Frank Work, Commissioner

We continue to change and evolve.

From our fundamental responsibility for the resolution of access requests and privacy complaints under the *Freedom of Information and Protection of Privacy Act*, we have diversified.

Public bodies, particularly those in the Government of Alberta, have begun implementing complex information technology systems and projects such as the Government of Alberta Enterprise Architecture, a component of which is an innovative and award winning privacy architecture, Service Alberta, which will be delivering more government services on-line, or new technologies such as wireless. The Office of the Information and Privacy Commissioner will continue to participate in the development of these initiatives, helping the builders develop systems which facilitate access to information and ensure, to the extent possible, privacy and security. We are increasingly involved in consulting with public bodies on legislative and policy initiatives and on specific programs, such as the Children's Services' Adoption website, the Alberta Children and Youth Initiative (ACYI) and the Alberta Government's Security Screening Directive. In its Three-Month Review report, Children's Services acknowledged that the privacy concerns raised by this Office contributed to the success of the ministry's Adoption website. This Office provided consultative services to assist the ACYI Committee in the development of its "Information Sharing Guideline," which identifies the principles, parameters and processes in the complex matter of cross-sector information sharing among government ministries and agencies for children and youth. I was also pleased that, through discussions with my Office and the development of a privacy impact assessment, the Alberta Government Security Screening Directive incorporated measures and procedures to minimize the privacy impact to employees subject to the Directive.

Even though they are not required under the *Freedom of Information and Protection of Privacy Act*, more public bodies are preparing privacy impact assessments. This is good business, sound "due diligence". We are pleased to be able to add to the quality of public programs for Albertans by reviewing these.

In terms of the quality of public programs generally, I want to recognize the valuable contribution of the "FOIP Coordinators" in the various public bodies and the Information Management and Privacy Division of Alberta Government Services. These people provide real value to the public bodies they serve and to Albertans generally. They are information policy experts who help public bodies avoid pitfalls and develop sound programs and policies.

Under the *Health Information Act*, we were initially intensively involved in educating healthcare providers about their responsibilities under the law. As custodians began implementing information systems, our workload shifted towards reviewing privacy impact assessments, and working with custodians on resolving practical privacy issues. We have worked closely with the Physician Office System Program (POSP) to establish confidentiality, privacy and security requirements for electronic medical record systems. We have also been involved in the research community by providing direct support to the provincial Chairs of the ethics committees and by offering education and awareness to custodians, researchers and the designated ethics committees to increase their level of understanding of the *Health Information Act* research provisions.

We have been extensively involved in the development of Alberta's electronic health record. While this is not without controversy or concern, I remain convinced that it is critical to apply information technology to afford better

health care and a more efficient health care system to Albertans. Technology has to serve society and, while there is no such thing as a zero-risk proposition, it has to be used in the most sensitive and secure manner possible.

A very large proportion of our work in the area of health information arises from reviewing privacy impact assessments. Under the *Health Information Act*, custodians of health information are required to prepare and submit a privacy impact assessment prior to implementing a new practice or system. We have reviewed a large number of these and, I suspect, there are a number of custodians who should have submitted a privacy impact assessment who have not yet done so. Not all custodians are happy about having to prepare a privacy impact assessment: it is time consuming. One clinic however, which prepared a privacy impact assessment on their electronic medical record system and did implement it, had several computers stolen from its premises. As a result of the privacy impact assessment, the clinic had saved all health information to a data server that was physically secured in a locked room. The computers that were stolen did not contain health information. The potential harm that could have occurred was mitigated by the clinic's implementation of reasonable safeguards.

Finally, we have been consulted on the preparation of the proposed *Personal Information Protection Act*. The Government of Alberta is to be commended for undertaking this initiative: it is a good law. We are pleased to have been able to participate and we look forward to working with the Government of Alberta and the private sector to implement it.

While we continue to discharge our core responsibilities under the law, that is, dealing with individual requests for access to information and complaints about improper collection, use or disclosure of personal information, we also participate in the development of policies and programs by public bodies and health care providers. We have been able to add real value to these programs while, at the same time, representing the access and privacy rights of Albertans.

The world around us continues to change as well. In the aftermath of the events of September 11, 2001, our society moved quickly in the direction of greater security. The responses of governments to this threat often resulted in restricted access to information and less privacy. In the two years since the World Trade Center tragedy, we have as a society, moved back toward the center as we begin to question whether some of the most drastic security related measures were necessary. One of the most difficult parts of our mandate is engaging the public in matters of privacy. On the one hand, in survey after survey, large proportions of respondents place a high value on privacy. In a survey commissioned by my Office in 2003, respondents overwhelmingly (98%) agreed that it is important to protect individual privacy in Alberta, an increase of 10% from our 2000 benchmark survey. Yet, when it comes to actual social measures that reduce privacy, such as surveillance cameras or national identification cards, we are all too quick to acquiesce, at least according to other surveys. Perhaps, in a society where information is available instantaneously, we tend to look for the "quick fix" for social problems as well. Maybe it is that we have developed what has been called a "culture of fear" where we believe that things are much worse than they really are and require a drastic response.

There are no quick fixes, no technological silver bullets to make everything right. I accept the idea that surveillance plays a role in law enforcement and, in that regard, I commend the Edmonton Police Service for their management of the cameras on Whyte Avenue. But, surveillance cameras do not reduce crime. The United Kingdom has literally millions of surveillance cameras and their crime rate is increasing. According to the Canadian Centre for Justice Statistics (CCJS), the rate of violent crime in Alberta and Canada generally is and has been decreasing for the past 10 years. Identification cards are touted as a means to ensure greater security and reduce fraud and identity theft. But they are staggeringly expensive ($6 billion plus for a Canadian card, by some estimates) and it is certain that they could eventually be forged, even with biometric identifiers embedded, thereby rendering us even more vulnerable to the extent that we come to rely on them exclusively. Again, there are no quick fixes, no "sure things" in this Information Age.

We live in an age of technological miracles. The challenge we share is to use this incredible technology to serve us and our society without enslaving us.

INTRODUCTION

BACKGROUND

The Alberta *Freedom of Information and Protection of Privacy (FOIP) Act* received Royal Assent on June 1, 1994, although most of the Act did not come into force until October 1, 1995. The *Health Information Act* (HIA) was passed by the Alberta Legislature in 1999 and came into force on April 25, 2001. Franklin J. Work, Q.C., was appointed as the province's second Information and Privacy Commissioner in 2002.

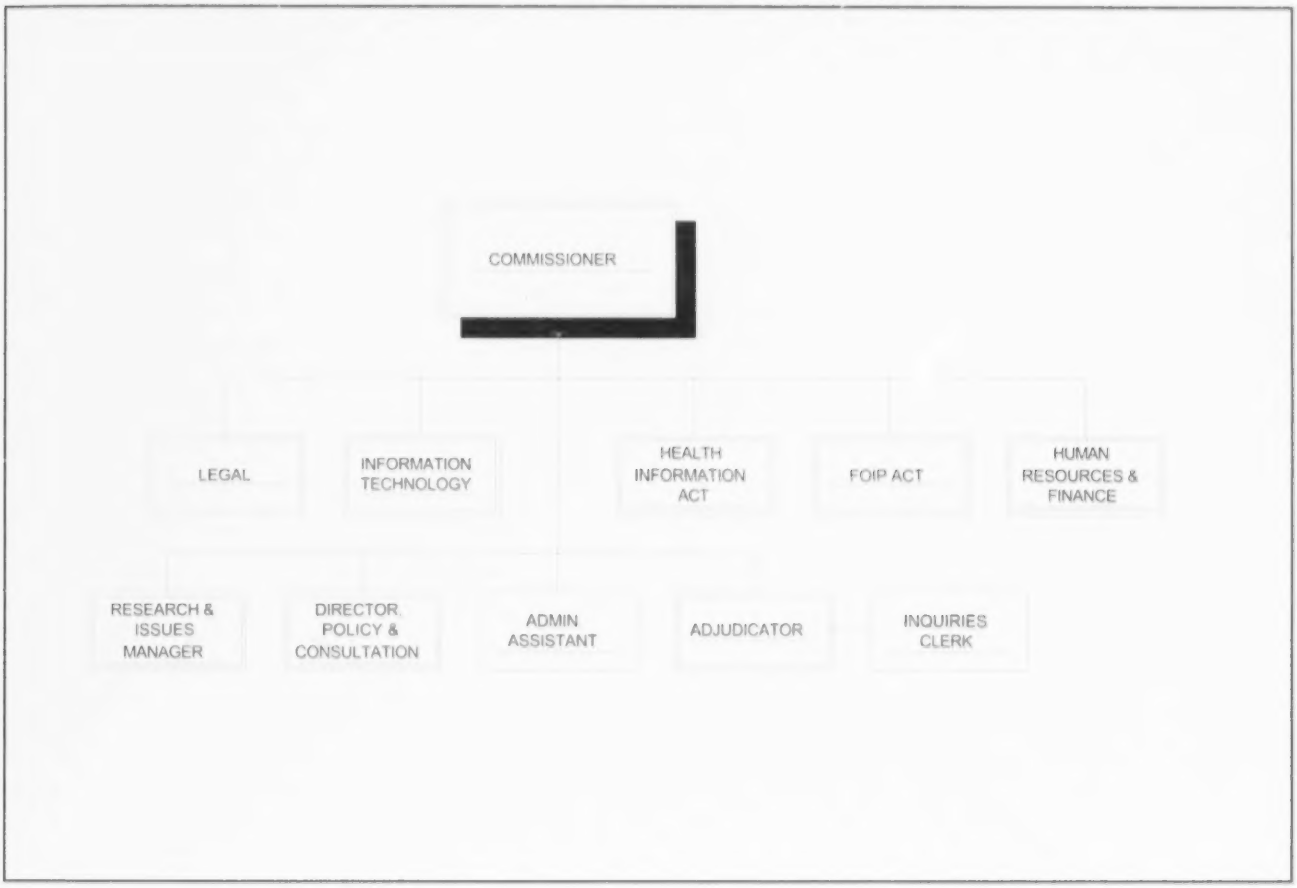
With the implementation of the *Health Information Act* (HIA), the OIPC hired two Health Portfolio Officers, a Compliance Officer, and a Health Intake Officer. In 2002, due to the impending increase in caseloads created by the HIA, the Commissioner delegated his order making authority to an Adjudicator as authorized under Section 61(1) of the FOIP Act. Additionally, a FOIP Officer and an Inquiries Clerk were added in 2001-2002. In 2002-2003, the position of HIA Officer was created to assist the HIA Team in reducing caseload and to assist with reducing privacy impact assessment backlog. Subsequently, a new HIA Intake Officer was hired. The Government of Alberta introduced private sector privacy legislation in spring 2003; as a result the OIPC anticipates hiring a Team Leader, Portfolio Officer and Legal Counsel as part of a plan to implement education and compliance strategies for the new Act. The staffing strategy of OIPC is to hire individuals with adaptable skills and extensive experience in areas that are particularly relevant to access and privacy issues. In so doing, the organization has created a broad base of knowledge, which can be drawn upon in order to enforce the Acts and assist Albertans with any concerns they have in this area.

MANDATE

Under the Acts, the Commissioner is responsible for performing a broad range of functions. Section 53 of the FOIP Act and Section 84 of the HIA set out a number of these responsibilities:

- Informing Albertans about the FOIP Act and the HIA.
- Reviewing the access to information decisions of public bodies under the FOIP Act.
- Reviewing the access to information decisions of custodians under the HIA.
- Investigating how public bodies and custodians collect, use and disclose personal information to make sure that an individual's privacy is being protected.
- Conducting investigations of public bodies to ensure compliance with the FOIP Act.
- Conducting investigations of custodians to ensure compliance with the HIA.
- Hearing comments from the public about how the Acts are being administered.
- Researching anything affecting the achievement of the FOIP Act and the HIA's purposes.
- Commenting on the privacy and information implications of proposed legislation and programs.
- Informing custodians and the heads of public bodies when applicants have not been adequately served under the Acts.
- Giving advice and recommendations about the Acts to heads of public bodies and custodians.
- Authorizing the collection of personal information from sources other than the individual the information is about.

ORGANIZATIONAL STRUCTURE 2002-2003



Each Team is led by a Team Leader.

ACCOMPLISHMENTS

Under the Freedom of Information and Protection of Privacy Act and the Health Information Act, the Commissioner is an Officer of the Legislature and independent from government. As such, one of the Commissioner's key responsibilities is to provide for independent reviews of decisions made by public bodies and custodians and the resolution of complaints under the Acts. The following are some of the significant Orders and Investigation Reports issued that help interpret both the Acts:

INTERPRETATION OF LEGISLATION

- The Commissioner initiated an investigation under section 84(a) of the *Health Information Act* ("HIA") of the issue: **Does the HIA permit Alberta pharmacists and pharmacies to disclose health services provider information to IMS HEALTH, Canada Inc. ("IMS")?** This order is currently subject to Judicial Review.

  — Order H2002-003

  Please see page 40 for the summary.

- For the first time in the history of Alberta's *Freedom of Information and Protection of Privacy Act* (the "FOIP Act"), the Information and Privacy Commissioner has allowed two public bodies to disregard a person's access requests made under the FOIP Act.

  — Section 55 of the FOIP Act

  Please see page 40 for the summary.

- The Commissioner issued his Office's report on Alberta Children's Services Adoption website. The report finds that Children's Services has the authority under the *Freedom of Information and Protection of Privacy Act* (FOIP Act) to disclose the children's personal information on the website for the purpose of finding homes for children who are available for adoption.

  — F2003-IR-001

  Please see page 41 for the summary.

- The Commissioner ordered the Alberta Mental Health Board to disclose an Applicant's patient record to the Applicant. The Applicant applied under the *Health Information Act* to the Alberta Mental Health Board for

access to his entire patient record, which involved health information from two involuntary admissions. Except for the limited amount of information that was not to be disclosed, the Commissioner ordered the Alberta Mental Health Board to disclose the 536 pages of records to the Applicant.

— H2002-001

Please see page 41 for the summary.

- The Commissioner decided that the *Freedom of Information and Protection of Privacy Act* applies to trial and docket sheets, also known as appearance lists, which are in the custody of Alberta Justice. Note: On October 8, 2002, Alberta Justice, the Public Body in Order F2002-002, served the Office of the Information and Privacy Commissioner with notice of judicial review. As provided by section 74(4) of the FOIP Act, Order F2002-022 is stayed until the Court of Queen's Bench deals with the judicial review application.

— F2002-022

Please see page 42 for the summary.

- Former Information and Privacy Commissioner, Bob Clark, decided that the University of Alberta must give a professor access to information regarding her removal from a graduate committee. The Order, 2000-032, concerned an access request by a University of Alberta professor, made under the *Freedom of Information and Protection of Privacy Act*, to the University of Alberta. Note: This Order was the subject of Judicial Review in 2002. The Order was quashed in Action No. 0103-13192 and was returned to the Commissioner for reconsideration. The Commissioner's reconsideration was released as Order F2002-030R.

— 2000-032

Please see page 42 for the summary.

- The University of Alberta properly refused to disclose third party personal information supplied in confidence. After reviewing a Court of Queen's Bench request for review of prior Order 2000-032, which had previously addressed this matter, and after reviewing the submissions and rebuttals of both parties, Commissioner Frank Work determined that the U of A, in these circumstances, reasonably exercised its discretion under the *Freedom of Information and Protection of Privacy Act* by not providing the third party information sought by the professor.

— F2002-030R

Please see page 42 for the summary.

- Applicants made requests to the David Thompson Health Region and to Dr. S. Beshai ("the Custodians") under the *Health Information Act*, for access to hospital medical records of a deceased minor. The Custodians

refused to disclose any health information to the Applicants. The Act does not allow Custodians to provide access to or disclosure of health information of deceased minors, even to a personal representative.

— H2002-00

Please see page 42 for the summary.

- The Commissioner released an Investigation Report concerning the theft of computers containing individually identifying health information from HealthWise HomeCare Inc, an affiliate of both Capital Health Region and Aspen Regional Health Authority # 11. The investigation found the health authority did not maintain administrative safeguards to protect confidentiality of health information.

— H2002-IR-00

Please see page 43 for the summary.

- The Commissioner released an Investigation Report concerning the improper disclosure of a client's detailed prescription drug history and the lack of safeguards to protect her privacy. The Commissioner's Office determined that the Medicine Shoppe at #312, 401 – 9th Avenue, Calgary, and one of its pharmacists, were required to obtain the individual's consent before they provided a computer printout of a client's prescription history to her estranged husband.

— H2002-IR-00

Please see page 44 for the summary.

EDUCATION *and* PUBLIC RELATIONS

Under Section 53 of the FOIP Act and Section 84 of the HIA, one of the Commissioner's responsibilities is to inform the public about the Acts, as well as to receive comments from the public concerning the administration of the Acts. This is an important function to help Albertans understand their access and privacy rights under the Acts.

Many organizations or groups are looking for basic explanations and descriptions of the Acts and the function of the Office of the Information and Privacy Commissioner (OIPC). Other times, groups have specific questions or concerns with regard to the effect the Acts have, or will have, on information management relative to specific areas. The OIPC is open to helping Albertans understand the Acts and issues surrounding access to or privacy of information.

THE FOLLOWING ARE SOME OF THE EDUCATIONAL INITIATIVES UNDERTAKEN BY THE OIPC OVER THE PAST YEAR:

- Provided development funds for the Health Information Management Diploma Program, Southern Alberta Institute of Technology (SAIT)
- Presentation to Law 657 – Law & Medicine Class, University of Calgary
- Presentation to First Year Moots, University of Alberta
- Access and Privacy seminars to Alberta high schools (various provincial locations)
- Presentation to long-term care centres, Edmonton
- Presentation to Medicentres, Edmonton/Calgary
- Meeting with Editorial Board – *Calgary Herald*
- Presentation to the Council of CEOs, *Health Information Act* session, Edmonton
- Presentation to the Post Secondary FOIP Contact Meeting, Edmonton
- Presentation to the Alberta Treaty Chiefs, *Health Information Act*, Edmonton
- Presentation to Stantec, Edmonton
- Presentation to the University of Alberta FOIP Symposium
- Presentation to Journalism Students, Grant MacEwan College, Edmonton

SOME OF THE ORGANIZATIONS THE OIPC ADDRESSED OVER THE PAST YEAR:

- Information & Privacy Office, University of Alberta, Edmonton
- Canadian Society of Association Executives, Calgary
- Association of Canadian Search, Employment & Staffing Services, Calgary
- Canadian Association of Petroleum Producers, Calgary

- 13th Annual Health Law Seminar, Edmonton
- Canadian Public Relations Society National Conference, Toronto, ON.
- Annual FOIP 2002 Conference, Edmonton
- First HIA Conference, Nisku, Alberta
- Northern Municipal FOIP Regional Alliance, Sherwood Park, AB
- Conference Board of Canada, Council of Industrial Relations Executives, Calgary
- House of Commons Committee on National Identification Card, Vancouver, B.C.
- CACCR Information Security Workshop, Toronto
- Alberta Association of Registries Agents Annual Conference, Calgary
- Canadian Access and Security Association, Edmonton/Calgary
- American Society for Industrial Security International, Calgary
- International Facilities Management Association, Calgary
- Building Owners and Managers Association, Calgary
- Children's Hospital Aid Society, Calgary
- Council on Government Ethics Laws, Ottawa
- Radio-Television News Directors Association, Calgary
- Calgary Chamber of Commerce
- Mistahia Health Authority
- Palliser Health Authority
- Chinook Health Authority
- Calgary Health Region
- City of Calgary FOIP Program Managers
- Occupational Health Physicians, Calgary
- FOIP presentations to Edmonton area probation offices
- Federation of Regulated Health Professionals, Edmonton

SOME OF THE CONFERENCES AND CONVENTIONS THE OIPC ADDRESSED OVER THE PAST YEAR:

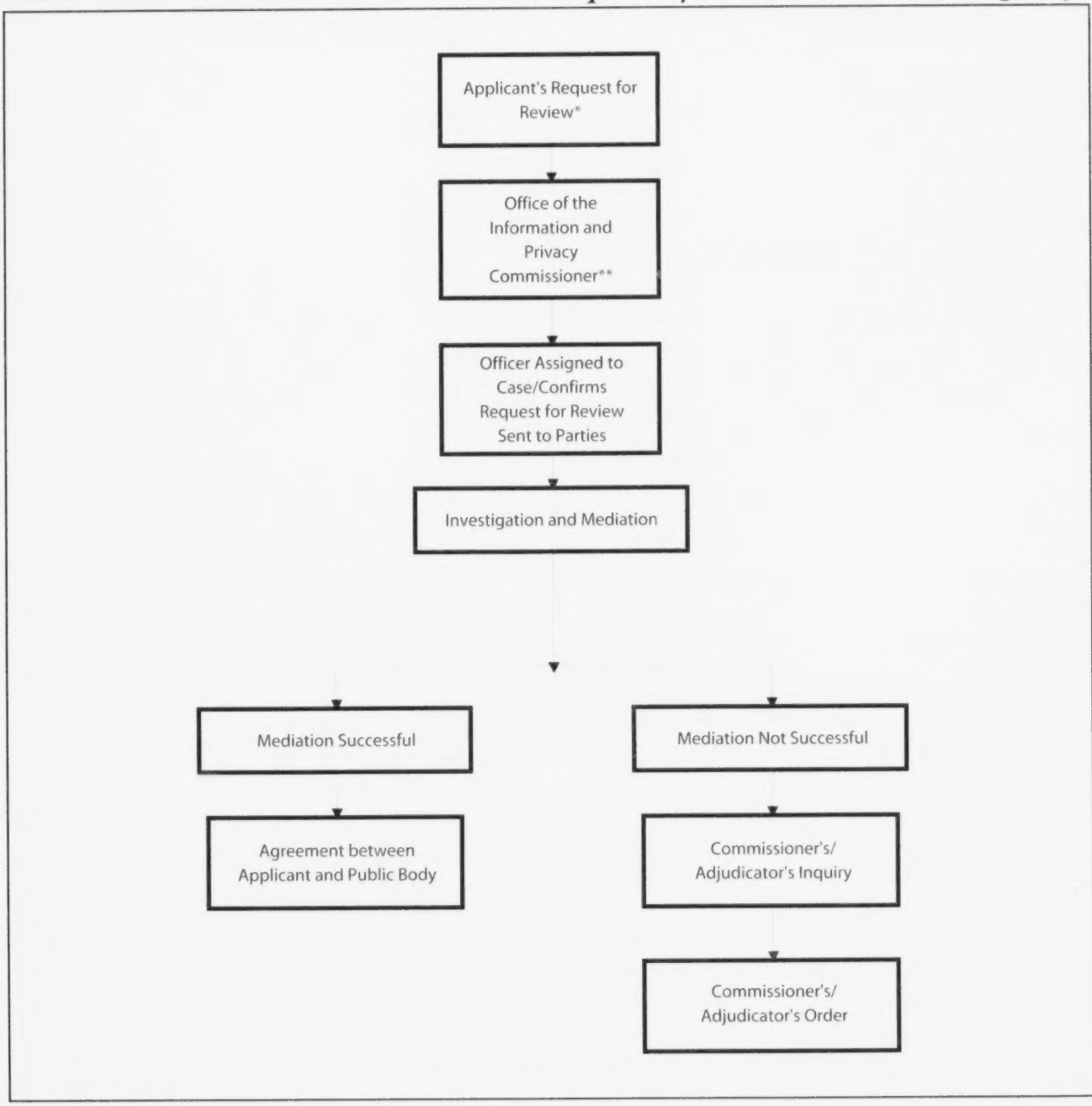
- Federal/Provincial/Territorial Commissioners' Meeting, Ottawa, ON
- The Frontiers of Privacy & Security: New Challenges for a New Century, Victoria, B.C.
- Alberta Law Conference Panel, Edmonton
- Insight – Privacy Laws & Effective Workplace Investigations, Vancouver, B.C.
- Emerging Provincial Privacy Legislation & its impact on the Financial Services Sector, Toronto, ON
- Personal Privacy in the Digital Age, Washington, D.C.
- Alberta Health Records Association, Edmonton
- Occupational Health Nurses, Calgary
- FOIP Conference, Edmonton
- HIA Conference, Nisku, AB
- The Fundamentals of Administrative Law and Practice - The Canadian Institute, Ottawa, ON
- Investing in Knowledge-The Council of the Canadian Administrative Tribunals, Hull, P.Q.

SOME EXTERNAL COMMITTEES THE OIPC STAFF ARE INVOLVED WITH:

- Information Management Training Advisory Committee
- Provincial Chief Information Officers' Committee

- Vendor Conformance Usability Taskforce, Physician Office System Program (POSP)
- Medical Informatics Committee, College of Physicians and Surgeons
- Audit Strategy Task Group, Alberta Health and Wellness
- Public Education and Awareness Campaign Ad Hoc Working Group, Alberta Health and Wellness
- Council of Chairs, Research Ethics Boards Chairs
- Health Sector Network, Alberta Health and Wellness
- Privacy Awareness Training, Alberta Health and Wellness
- Technical Advisor to the Select Special FOIP Act Review Committee, Legislative Assembly of Alberta
- Information Access and Personal Privacy Certification Program Advisory Committee, University of Alberta
- Canadian Bar Association section memberships
- Human Resource Directors' Council
- Canadian Bar Association monthly meetings for Aboriginal law, Edmonton
- Administrative law and Law Society of Alberta Gender and Equality Committee meetings, Edmonton
- Central Alberta Network of Information Managers
- Northern Alberta FOIP Regional Alliance
- Southern Alberta FOIP Regional Alliance
- ACYI (Alberta Children and Youth Initiative)

THE PROCESS: *Request for Review and Inquiry*


Applicant's Request for Review*
Office of the Information and Privacy Commissioner**
Officer Assigned to Case/Confirms Request for Review Sent to Parties
Investigation and Mediation
Mediation Successful
Agreement between Applicant and Public Body
Mediation Not Successful
Commissioner's/ Adjudicator's Inquiry
Commissioner's/ Adjudicator's Order

* Applicant: a person who makes a request for information held by a public body or a person who is affected by a public body's collection, use or disclosure of that information.

** The Commissioner/Adjudicator is not involved with the Request for Review until the Inquiry stage.

MEDIATION *and* INVESTIGATION

The role of the Information and Privacy Commissioner is regulatory. The Commissioner's authority to mediate and investigate is extensive.

The processes involved in mediation and investigation within the OIPC are separate and distinct. Mediation is used to describe the activities involved in the review of an access request. Investigation is used to describe the activities involved in the resolution of complaints.

MEDIATION

Should an individual not be satisfied with the decisions made by the public body/custodian in response to a request for access to information, the individual may approach the Commissioner and ask for a review to be conducted. The request for a review must be received by the Commissioner's Office no later than 60 days from receipt of the public body/custodian's response. Section 66(2)(ii) of the *Freedom of Information and Protection of Privacy (FOIP) Act* allows the Commissioner to accept a request for review after the 60-day period if he so decides. Upon receipt of a request for review, the Commissioner assigns a Portfolio Officer to mediate. The FOIP Act and the *Health Information Act (HIA)* allow 90 days for the purpose of mediation or any longer period authorized by the Commissioner.

Mediation demands that the Portfolio Officer act as a facilitator between the public body/custodian and the applicant with the goal of negotiating a mutually acceptable resolution of the dispute. Mediation involves extensive review of the records at issue, the interpretation and application of various pieces of complex legislation, identification of concrete issues and the presentation of findings to the parties. Mediation is extremely effective in resolving disputes over access to records and/or the duty imposed by Section 10 of the FOIP Act and Section 10 of HIA, as can be seen in the statistics that follow this discussion. On occasion where a resolution cannot be reached, mediation has assisted in reducing the number of issues that proceed to inquiry. The OIPC maintains a commitment to the use of mediation in order to successfully resolve disputes, even if that resolution requires an extension of the 90-day time period.

INVESTIGATION

Complaints result when a public body/custodian appears to be contravening the privacy provisions outlined in the FOIP Act and the HIA. Rarely do complaints pertain to issues of access to information. They usually involve the alleged unauthorized collection, use and disclosure of personal information/health information by a public body/custodian. Upon receipt of a privacy complaint, the Commissioner assigns a Portfolio Officer to investigate the matter. Unlike mediation, there is no set 90-day time period for the completion of an investigation.

During the investigation, the Portfolio Officer endeavours to piece together the events that led to the alleged breach and determine whether or not the collection, use or disclosure of personal information/health information was indeed a contravention of the FOIP Act or the HIA. An investigation may involve extensive interviews with parties

and interpretation and application of legislation. The findings and recommendations of an investigation are provided to the parties involved and may be presented in a formal investigation report that may be publicly released. The findings and recommendations of an investigation may have far-reaching implications.

If no resolution is reached during the investigation, the complainant may ask that the matter proceed to inquiry. Complainants may ask for an inquiry if they are not satisfied with the findings of the Portfolio Officer's investigation and if the complaint relates to their own personal information. A Commissioner's inquiry is a formal quasi-judicial process where the Commissioner decides issues of fact and law to resolve a review or a complaint and issues an Order. An Order issued by the Commissioner is final and the only avenue of appeal is Judicial Review before the Court of Queen's Bench.

STATISTICS

As previously stated, the OIPC is committed to the use of mediation in the resolution of disputes even if this should require an extension of the 90-day time period allowed. The statistics that follow accurately detail the activities of the OIPC. Increasingly, the amount of time spent at mediation is going well beyond the 90-day time period. The OIPC also finds that the time for completing an investigation has increased.

The OIPC attributes this increase to several factors. Public bodies have now been subject to the FOIP Act for eight years. With the numerous precedent-setting Orders, Investigation Reports, Practice Notes and guidance from the Information Management, Access and Privacy Branch of Alberta Government Services, public bodies are often resolving many of the issues previously mediated or investigated by the OIPC at the public body level. Consequently, the OIPC now receives primarily highly complex and contested disputes that require far more time to resolve successfully. The OIPC remains committed to the successful resolution of disputes through the open and flexible processes involved in mediation and investigation rather than adopting a restrictive and narrow approach that would lead to an increasing number of cases at inquiry. The OIPC believes that mediation and investigation provide the parties with a more facilitative and less formal forum to resolve their disputes; therefore, the OIPC allows more time for these processes.

FOIP ACT STATISTICS: *2002-2003*

FOIP Graph 1 20

FOIP Graph 2 20

FOIP Graph 3 21

FOIP Graph 4 21

FOIP Graph 5 22

FOIP Graph 6 22

FOIP Graph 7 23

FOIP Table 1 24

Appendix B 60

HIA Graph 1A 26

HIA Graph 1B 27

HIA Table 2 28

HIA Graph 3 29

HIA Graph 4 30

HIA Graph 5 31

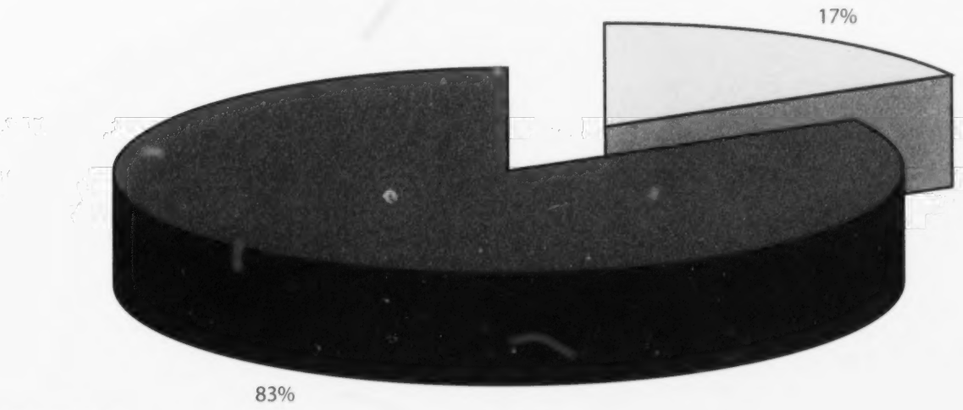
HIA Table 6 31

HIA Graph 7 32

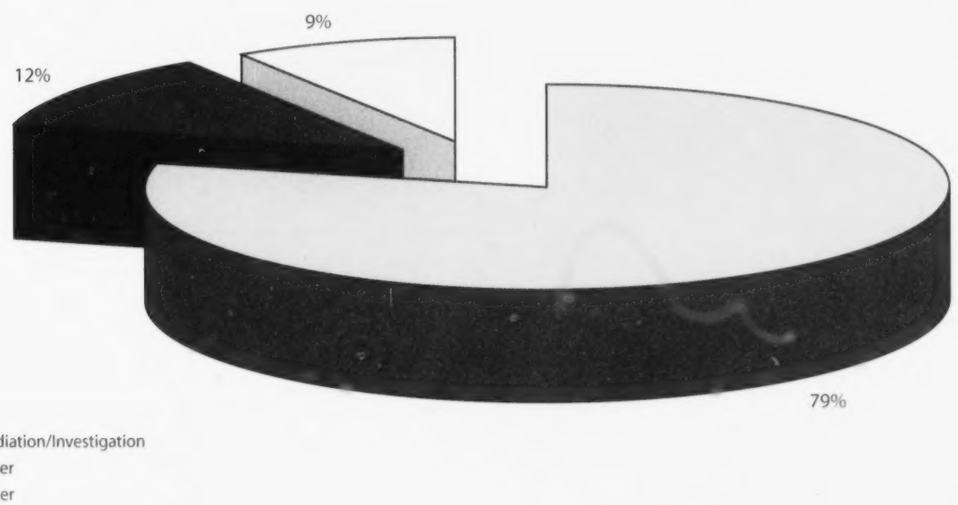
HIA Table 8 33

FOIP GRAPH STATISTICS: *2002-2003*

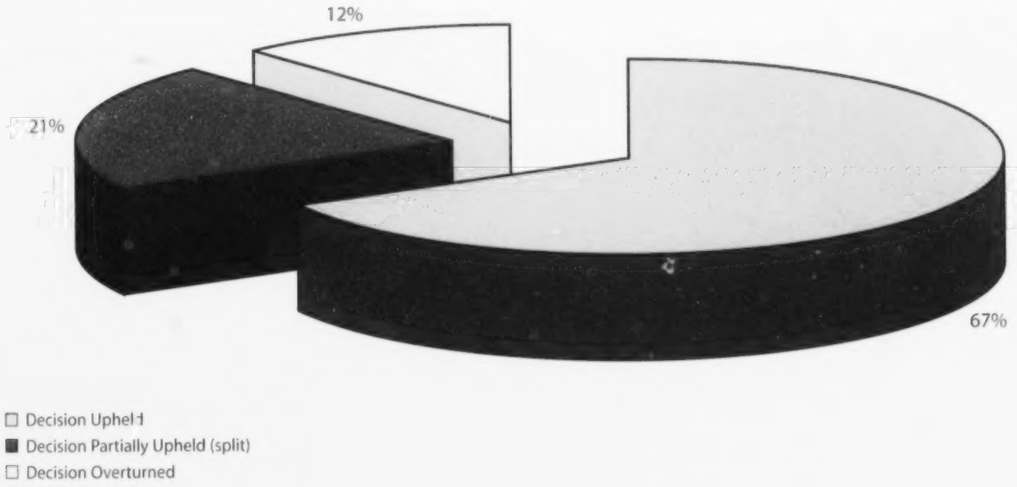
FOIP GRAPH 1: *Cases Initiated by Public Bodies and Cases Initiated by the Public*



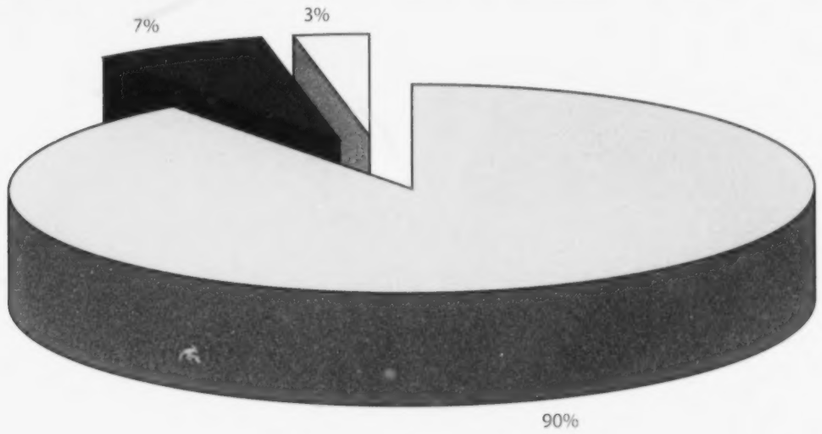
FOIP GRAPH 2: *Total Case Resolutions 2002-2003: By Resolution Type*



FOIP GRAPH 3: *Commissioner's Orders Issued to Public Bodies*

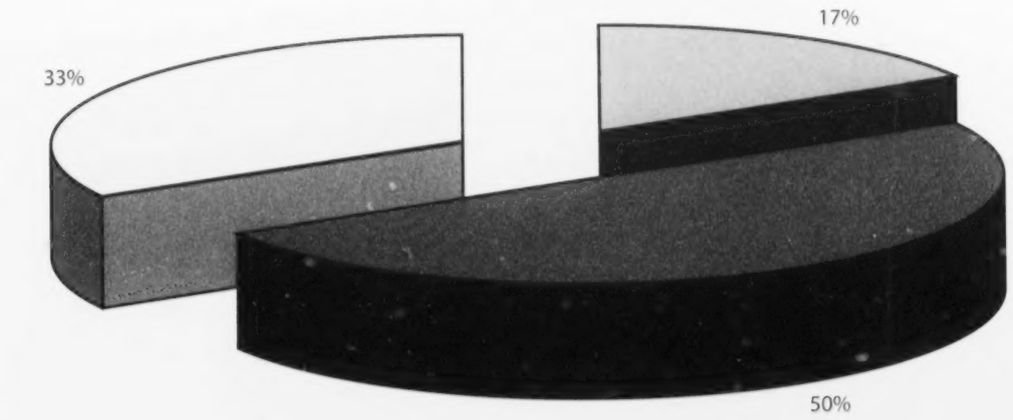


FOIP GRAPH 4: *Complaints Closed 2002-2003: By Resolution Type*

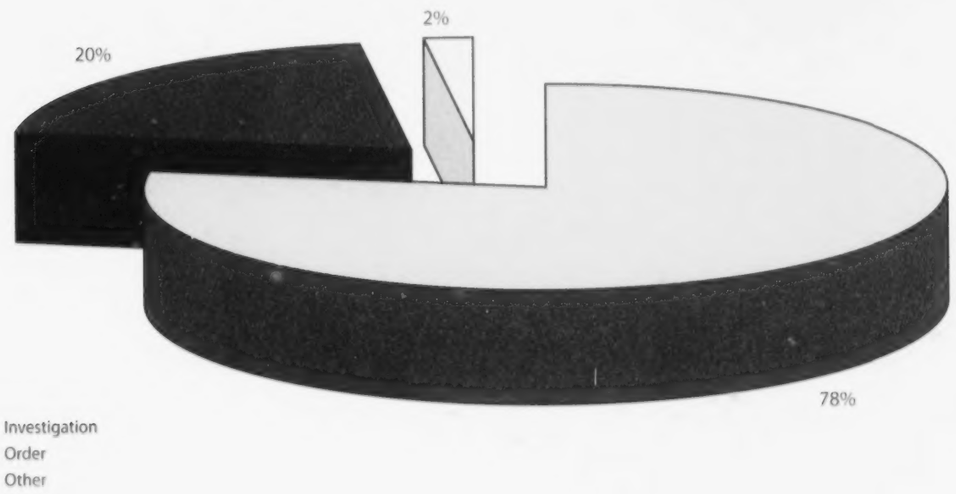


2002 - 2003 Annual Report

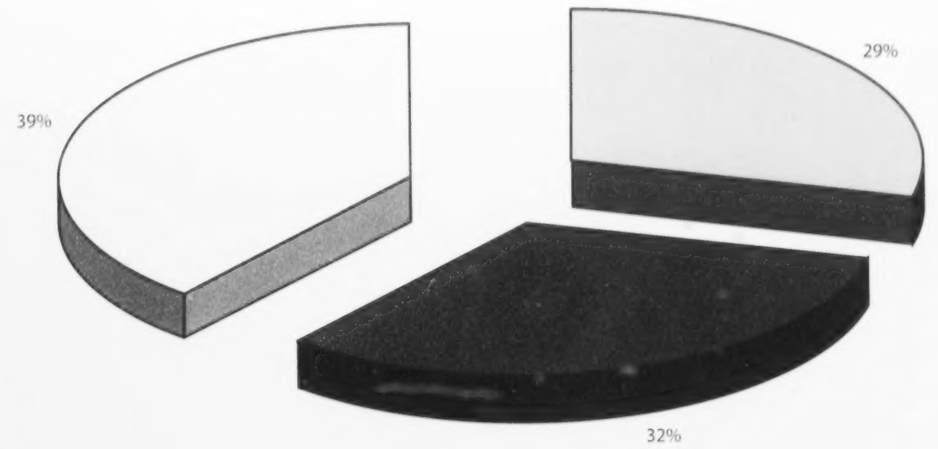
FOIP GRAPH 5: *Complaints Closed 2002-2003: By Duration*



FOIP GRAPH 6: *Requests for Review Closed 2002-2003: By Resolution Type*



FOIP GRAPH 7: *Requests for Review Closed 2002-2003: By Duration*

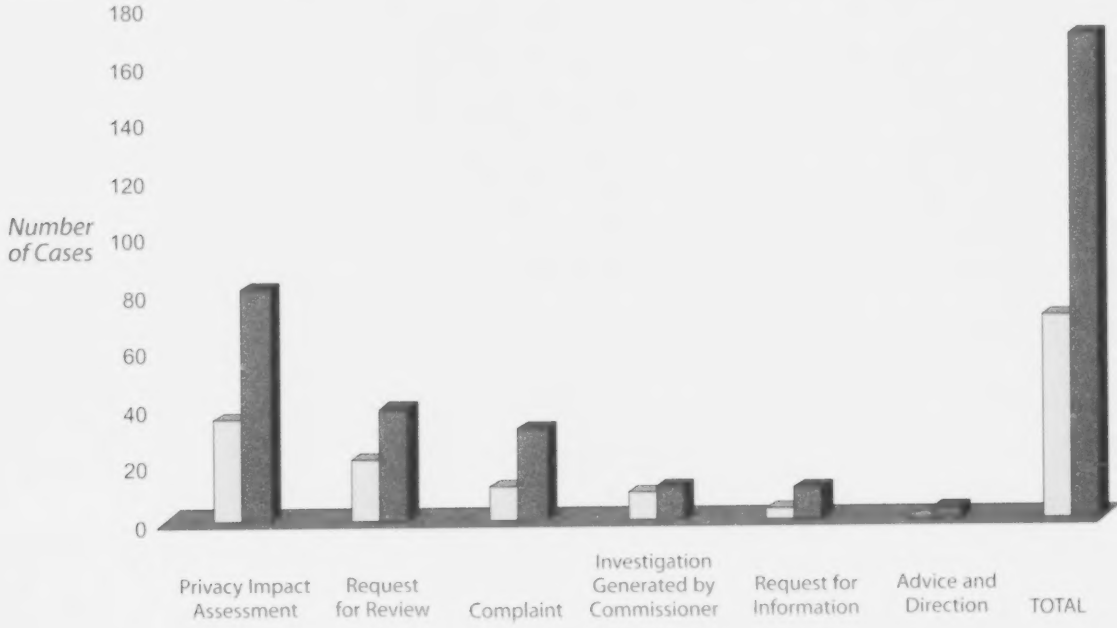


FOIP TABLE 1: *Comparison of Cases Opened 1998-2003*

	Request for Review	Request to Excuse Fees	Complaint	Privacy Impact Assessment (PIA)	Request for Advice & Direction/Request for Information (IF)	Request to Exceed Time	Investigation Generated by Commissioner	Request to Disregard FOIP Request	Other	TOTAL
Cases Opened 1997-1998	75	3	31	0	19	9	3	0	1	141
Cases Opened 1998-1999	96	4	41	4	8	3	3	0	11	170
Cases Opened 1999-2000	160	10	51	14	15	9	0	0	10	269
Cases Opened 2000-2001	137	10	69	28	10	7	3	0	1	265
Cases Opened 2001-2002	149	10	78	10	16	4	2	0	2	271
Cases Opened 2002-2003	149	5	59	13	12	15	5	3	0	261

HIA STATISTICS: *2002-2003*

HIA GRAPH 1A: *Cases Opened by Case Type: A Two Year Comparison*



	Privacy Impact Assessment	Request for Review	Complaint	Investigation Generated by Commissioner	Request for Information	Advice and Direction	TOTAL
Cases Opened 2002	32	19	8	6	2	0	67
Cases Opened 2003	79	38	31	8	8	2	166

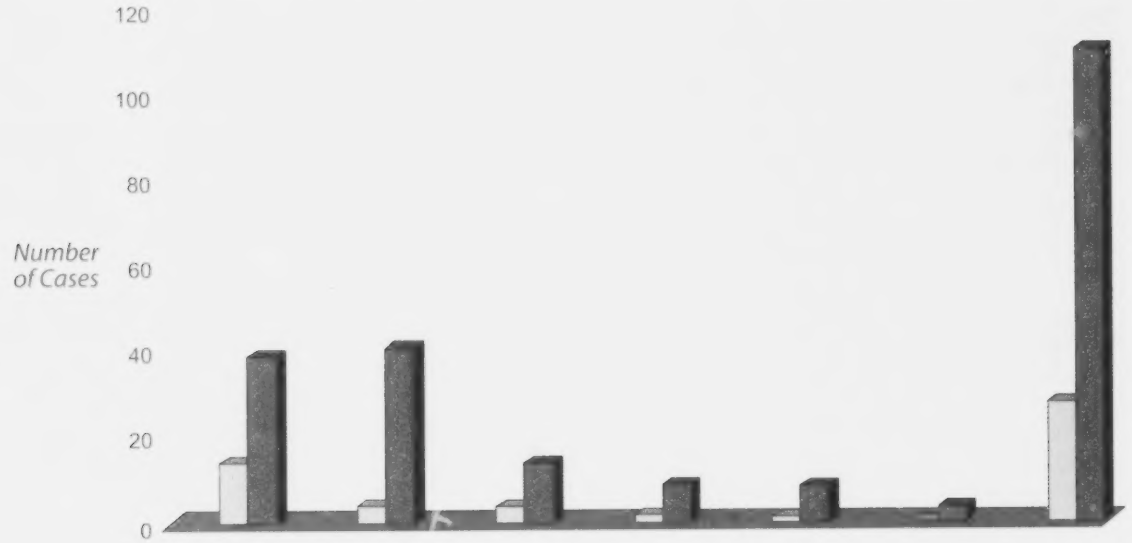
Privacy Impact Assessments

Under the *Health Information Act* (HIA), section 64 – duty to prepare privacy impact assessment (PIA) is a mandatory provision obliging custodians to prepare a PIA describing how proposed administrative practices and information systems relating to the collection, use and disclosure of individually identifying health information may affect the privacy of individuals.

The total number of PIA submissions opened for review this fiscal year was 79. Of the 79 PIA submissions, 37 were submitted by physicians under the Physician Office System Program (POSP), 24 were submitted by regional health authorities and 11 from the Department of Health and Wellness. Nine of the 17 regional health authorities submitted Privacy Impact Assessments in 2002/2003.

The increased volume for the fiscal period 2002/2003 is attributed to the POSP. POSP is a joint program operated by the Alberta Medical Association and Alberta Health and Wellness, as an outcome driven program designed to automate physician offices. Office automation triggers the mandatory section 64 PIA requirement of the HIA.

HIA GRAPH 1B: *Cases Closed by CaseType: A Two Year Comparison*



	Privacy Impact Assessment	Request for Review	Complaint	Investigation Generated by Commissioner	Request for Information	Advice and Direction	TOTAL
Cases Closed 2002	14	5	4	2	1	0	26
Cases Closed 2003	36	40	13	8	7	3	107

HIA TABLE 2: *Cases Opened 2002 - 2003 Fiscal Year*

All statistics are for the period of April 1, 2002 - March 31, 2003

Custodian	Request for Review	Complaint	Invest. By Com.	RFI's	Adv. & Dir.	Total w/out PIA's	PIA's	Total Including PIA's
Regional Health Authorities (RHA)								
Aspen Regional Health Authority	0	0	0	0	0	0	0	0
Calgary Health Region	7	3	1	0	0	11	5	16
Capital Health Authority	3	4	5	1	0	13	8	21
Chinook Health Region	0	2	0	0	0	2	2	4
Crossroads Regional Health Authority	0	0	0	0	0	0	0	0
David Thompson Health Region	0	0	0	0	0	0	2	2
East Central Health Region	2	1	0	1	0	4	0	4
Headwaters Health Authority	0	0	0	0	0	0	2	2
Health Authority 5	0	0	0	0	0	0	2	2
Keeweetinok Lakes Regional Health Authority	0	0	0	0	0	0	1	1
Lakeland Health Region	0	0	1	1	0	2	0	2
Mistahia Health Region	1	0	0	0	0	1	0	1
Northwestern Health Services	0	0	0	0	0	0	0	0
Northern Lights Regional Health Authority	0	0	0	0	0	0	0	0
Palliser Health Authority	1	3	1	0	0	5	1	6
Peace Health Region	1	0	0	0	0	1	1	2
Westview Regional Health Authority	0	1	0	0	0	1	0	1
Provincial Boards								
Alberta Cancer Board	0	0	0	0	0	0	5	5
Alberta Mental Health Board	4	4	0	0	1	9	0	9
Long Term Care Centres (LTCC)								
The Good Samaritan Society*	1	0	0	0	0	1	1	2
Ministry/Department								
Alberta Health and Wellness	0	2	0	1	1	4	11	15
Other Custodians								
Calgary Laboratory Services	0	0	0	0	0	0	2	2
Pharmacies/Pharmacists**	0	1	0	0	1	2	0	2
Physicians**	18	10	0	3	0	31	36	67
TOTAL	38	31	8	7	3	87	79	166

* LTCC operated by a RHA.

** Individual Health Service Providers.

HIA GRAPH 3: *Closed Requests for Reviews by Resolution Type and Duration 2002 - 2003 Fiscal Year*

	90 days or less	91-180 days	More than 180 days	Total
Mediated	25	10	1	36
Order	0	0	4	4
Withdrawn by Applicant	0	0	0	0

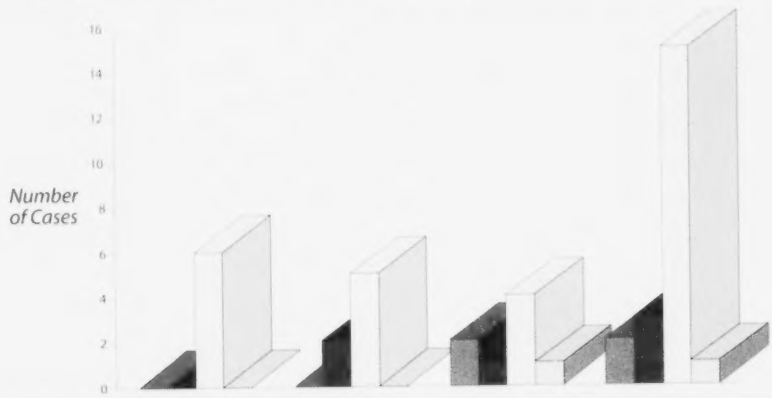
Under the HIA, an individual who makes a request to a custodian for access to or correction or amendment of health information may ask the Commissioner to review any decision, act or failure to act of the custodian that relates to the request.

In 2003, most requests for review arose out of the custodian's lack of awareness of the legislation or an incorrect interpretation of the law. The Commissioner may authorize a mediator to assist the applicant and the custodian in reaching an agreement to resolve the case.

- In 2003, 90% of cases were resolved through mediation; 87.5% within 180 days.

Based on the number of cases resolved and the length of time to resolution, mediation continues to be an effective method of resolving requests for review.

HIA GRAPH 4: *Closed Investigations by Resolution Type and Duration*
2002 - 2003 Fiscal Year



Resolution Type	90 days or less	91-180 days	More than 180 days	Total
Order	0	0	2	2
Public Investigation Report	0	2	1	3
Investigation Report	6	5	4	15
Withdrawn by Applicant	0	0	1	1

The Commissioner may conduct an investigation to ensure compliance with any provision of the HIA. Investigations normally commer with a complaint that health information has been collected, used or disclosed in contravention of the HIA. An investigation concludes with either a Public Investigation Report (investigation report publicly released with a news release) or an Investigation Report (investi tion report released to the parties involved). A complainant may ask the Commissioner to conduct a review and hold an inquiry to res a complaint. An Order is issued to conclude a complaint in situations where the Commissioner decides to conduct an inquiry.

In 2003, unauthorized disclosure of health information was the most common complaint investigated. Most of these cases found th the custodian had authority to disclose health information.

Investigations were also conducted where health information/records were not properly disposed of or secured. The cause of these breaches of privacy was human error or theft. These cases led to significant revisions to the custodian's policies and procedures wit respect to safeguarding of health information.

For additional information regarding Public Investigation Reports, please refer to the OIPC webpage at www.oipc.ab.ca

HIA GRAPH 5: *PIAs Closed by Resolution Type and Duration 2002-2003 Fiscal Year*

	90 days or less	91-180 days	More than 180 days	Total
Accepted	8	10	15	32
Closed without Acceptance	0	1	2	3
Withdrawn by Applicant	0	1	0	1

The initial review of a PIA usually results in questions of clarification for the custodian. The PIA is placed on hold and cannot be recommended for acceptance until the custodian responds to the questions raised during the review. It is noted that the time taken for custodians to respond has increased and has contributed to the time delay between initial review and acceptance by the Commissioner.

HIA TABLE 6: *Orders and Public Investigation Reports Issued*

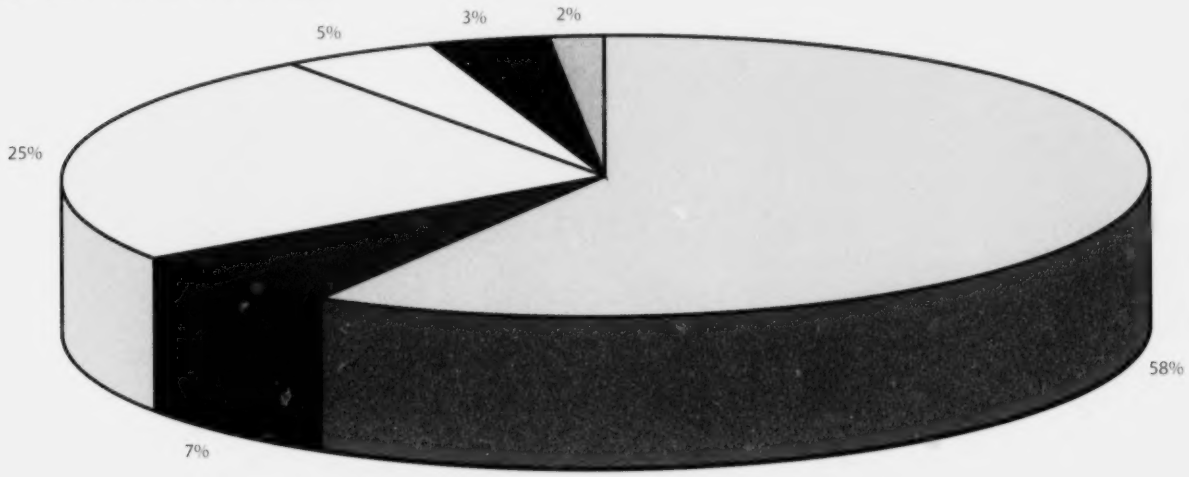
All statistics are for the period of April 1, 2002 - March 31, 2003

Custodian	Orders	Public Investigation Report	Total
Alberta Mental Health Board	1	0	1
Aspen Regional Health Authority	0	1	1
Calgary Health Region	1	0	1
Capital Health Authority	0	1	1
David Thompson Health Region	1	0	1
Dr. S. Beshai	1	0	1
Dr. D. J. Toliver	1	0	1
Lakeland Regional Health Authority	0	1	1
Other			
IMS Health Canada*	1	0	1
TOTAL	6	3	9

* IMS Health Canada is not a custodian under HIA. An OIPC file was established to track this project.

HIA GRAPH 7: *Case Resolutions 2002-2003*

2002 - 2003 Fiscal Year



	Percentage
Request for Review – Mediated	58%
Request for Review – Commissioner's Order	7%
Request for Review – Investigation by Officer	25%
Complaint – Public Investigation Report	5%
Complaint – Commissioner's Order	3%
Complaint – Withdrawn by Complainant	2%
TOTAL	100%

HIA TABLE 8: *Accepted Privacy Impact Assessments Closed by Custodian Type: 2002 - 2003 Fiscal Year*

All statistics are for the period of April 1, 2002 - March 31, 2003

Custodian	PIA Title	Date Accepted
Regional Health Authorities (RHA)		
Capital Health Authority	Children's Mental Health Regional Intake System	10-Oct-02
	Organ Transplant Tracking Record (OTTR) Project for Calgary Regional Health	1-Oct-02
	Organizational Privacy Management	10-Oct-02
	Physician After Hours Link-Up to Capital HealthLink	4-Dec-02
Calgary Health Region	Extension of Services by IBM	4-Dec-02
	Regional Accounts Receivable System	29-Apr-02
	Pain Management Database Palm Technology Application	26-Jul-02
	Collaborative Mental Health Care Program Clinical Performance Measure Database	8-Jul-02
	Organizational Privacy Management	21-Nov-02
Headwaters Health Authority	Ambulatory Care Reporting by Private Physical Therapy Contractors	15-Apr-02
Palliser Health Authority	New Information Systems Project	16-Sep-02
Subsidiary Health Corporations		
The Capital Care Group	MDS-2 Pilot Project (PointClickCare Enterprise Subscription)	5-Jul-02
Physicians		
Associate Medical Clinic	Physician Office System Program	13-Feb-03
Edson Medical Clinic	Physician Office System Program	8-Oct-02
Family Health Clinic	Physician Office System Program	4-Feb-03
Family Medical Associates	Physician Office System Program	23-Jan-03
Drs. Simon, Kuzyk, McDougall, Fell and Finvers Medical Clinic	Physician Office System Program	10-Feb-03
Greenwood Family Physicians	Physician Office System Program	4-Feb-03
Haig Medical Clinic	Physician Office System Program	23-Jan-03
Mainstreet Medical Services Clinic	Physician Office System Program	8-Oct-02
Morrison Medical Clinic	Physician Office System Program	4-Feb-03
Rocky Medical Clinic	Physician Office System Program	8-Oct-02
Valley View Family Practice	Physician Office System Program	8-Oct-02
Provincial Boards		
Alberta Cancer Board	Electronic Transfer of Digital Images (Cross Cancer Institute/Edmonton)	26-Jun-02
	Organizational Privacy Management	19-Sep-02
	Alberta Surgical Oncology Program/Cancer Surgery Working Group Database	27-Mar-03
Ministry/Department		
Alberta Health and Wellness	Alternate Practitioner ID	26-Jul-02
	Morbidity and Ambulatory Care Abstract Reporting (MACAR)	9-Dec-02
	Amendment to the Archival Blood Review Project	17-Jul-02
Alberta Wellnet	Pharmaceutical Information Network	26-Jul-02
	Gateway Services	8-Apr-02
	Provincial Personal Health Identifier	5-Jul-02
Other		
Physician Office System Program*	Master PIA Submitted for the POSP Program	17-May-02

* POSP is not a custodian under the Act. An OIPC file was established to track this project.

For additional information regarding the above listed PIAs, please refer to the OIPC webpage at www.oipc.ab.ca

SUMMARIES:

>>> *Advice, Recommendations and Analysis of Issues*

Public bodies may write to the Office of the Information and Privacy Commissioner to request comments on various matters. The responses provided by the Portfolio Officers are their views and opinions and the Commissioner may rule differently if the matter was before him in an inquiry.

Under Section 53(1)(f) of the *Freedom of Information and Protection of Privacy Act* the Commissioner is responsible for monitoring how the Act is administered to ensure that its purposes are achieved, and may comment on the implications for freedom of information or for protection of personal privacy of proposed legislative schemes or programs of public bodies.

For the 2002-2003 fiscal year, the Office of the Information and Privacy Commissioner commented on a dynamic legislative agenda, which in the reporting year included consideration of the:

- Security Management Statutes Amendment Act
- Traffic Safety Act
- Securities Amendment Act
- Child Welfare Amendment Act
- Climate Change and Emissions Management Act (2002 and 2003 versions)

These initiatives show Alberta is taking measures to make important processes work better in the information age, with an eye to balancing security and privacy. Our input has helped reinforce privacy safeguards while pointing out cases where public and individual rights of access to information are being impacted.

The FOIP Act Review was our most intensive legislative project ("Second Select Special FOIP Act Review Committee"). The highlights for us were the additional discretion accorded the Commissioner to refuse to hear inquiries where the Commissioner deems that the circumstances warrant refusing to conduct an inquiry, and the development of a new adjudicative role for the Commissioner in the settlement of disputes involving formal decisions of the Registrar of Motor Vehicles concerning access to operator and driver personal information.

COMMISSIONER RECOGNIZES COMPLETION OF THREE-YEAR REVIEW COMMITTEE REPORT ON THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT.

In December 2002, the Commissioner commended the Select Special Review Committee of the Legislative Assembly for meeting its commitment to conduct a review of Alberta's public-sector access and privacy law within the mandated timelines. The Committee's Final Report was tabled in the Legislative Assembly, while copies were distributed to the many participants who provided views to the Committee.

COMMISSIONER ACCEPTS PRIVACY IMPACT ASSESSMENT FOR THE ALBERTA SECURITY SCREENING DIRECTIVE

In January 2003, the Commissioner accepted the Privacy Impact Assessment for the Alberta Security Screening Directive (the "Directive"). In accepting the Privacy Impact Assessment, the Commissioner acknowledged that the Personnel Administration Office (PAO) has authority to make the Directive and that ministries, boards, commissions and other entities under the Public Service Act have authority to implement the Directive. Section 33(c) of the *Freedom of Information and Protection of Privacy Act* allows public bodies to collect personal information for an operating program or activity.

Under the Directive, security screenings will be required for all future appointments or reclassification to designated positions in the Alberta Public Service. Current employees in positions identified as requiring an enhanced security screening have the option of volunteering to participate in the screening process.

There are two screening levels under the Directive:

- Level 1 – Criminal Records Check - Criminal Records Check only.
- Level 2 – Enhanced Security Screening - Criminal Records Check plus Financial Management Risk Indicator screening plus Vulnerability Risk Indicator screening.

In his acceptance letter to PAO, the Commissioner wrote: "...I accept that there is a higher level of trust expected of employees at upper levels of government...This justifies some scrutiny and the corresponding collection of personal information. However, the extent to which an employer becomes involved in the personal life of an employee has to bear some reasonable relationship to responsibility and risk. It is not enough to say that Albertans need to be able to trust public servants and therefore the employees' lives should be an open book. You do not gather this kind of information about employees without good reason..."

The Commissioner also made the following cautionary comments regarding the security screenings set out in the Directive:

1. It does not tell the whole story about a person. On the one hand, people who have made mistakes can still be excellent employees. On the other hand, a "clean record" should not lull an employer into a false sense of security. It does not replace checks and balances within the administration.
2. Information collected is not necessarily going to be 100% accurate. It would be a terrible thing to damage someone's career because of unreliable information. For this reason, the ability to see the records and ask for correction is important.
3. While this kind of information may be indicative of the problem, predicting human behavior on the basis of this kind of information is not science: it is speculative.

The Commissioner said it is absolutely critical that, for the sake of employees, information transactions and the use of information is to be in writing. Employees must be able to see what information is held on them and, just as importantly, they must be able to see what is done with the information and how it affects their career.

COMMISSIONER APPLAUDS SECURITY AND PRIVACY PROTECTION INITIATIVES FOR ELECTRONIC HEALTH RECORDS SYSTEM – REGULAR AUDITS REQUIRED TO ENSURE PRIVACY, HOWEVER

In January 2003, the Commissioner issued a news release stating that regular system audits will help ensure patient privacy when paper files are converted into an electronic health records system. The Commissioner was commenting on an earlier announcement by Capital Health that the Edmonton region is planning on building an electronic record system for health information.

"Our office has worked closely with all health regions, including Capital Health, to ensure that the privacy of Albertans' health information is maintained and that strong security features are incorporated into any electronic health system," the Commissioner said in the news release. "Of course Capital Health's region-wide electronic health record must operate in accordance with the *Health Information Act*. We are expecting a Privacy Impact Assessment on this initiative, for one thing. For another, if Albertans feel that their health information is being collected, used or disclosed improperly, my Office can investigate and Order compliance with the Act," the Commissioner adds.

The *Health Information Act* establishes new obligations on custodians to take reasonable steps to establish

administrative, technical and physical safeguards to protect health information. The Commissioner added that h Office is available to offer advice, recommendations or assistance to individuals with concerns regarding the handli of their health information, whether the records are paper-based or in an electronic format.

COMMISSIONER RESPONDS TO THE AMENDMENT OF SECTIONS 104(1)(D) AND 35(1) OF THE HEALTH INFORMATION ACT

(February 2003)

As recommended in Commissioner's Order H2002-004, the Government of Alberta has introduced a amendment to the *Health Information Act* (HIA) to provide authority for custodians to provide access to an disclosure of health records/information of deceased individuals.

The proposed amendment to section 104(1)(d) of the HIA would allow personal representatives to exercise righ on behalf of deceased individuals for the purpose of administration of an estate.

The Commissioner indicated he is pleased to see these amendments as they achieve the balance of allowi appropriate access to health information, while still protecting the privacy of deceased individuals.

COMMISSIONER'S RESPONSE TO REPEAL OF SECTION 59 AND INTRODUCTION OF SECTION 60(2) OF THE HEALTH INFORMATION ACT

(March 2003)

During the Spring Session of the Legislature, the Government introduced Bill 10, which would repeal section 5 of the *Health Information Act* (HIA). In 1999, the OIPC asked that a provision similar to section 59 be included the HIA. Commissioner Frank Work acknowledged that he was prepared to see it repealed.

Section 59 of the HIA required that consent be obtained from individuals before their health information w disclosed by electronic means. The Commissioner accepted that section 59 is of little consequence since it is not abo whether health information can be disclosed to a particular person, it is about how it can be disclosed, i.e. o particular method of disclosure. Who health information can be disclosed to remains the same. The rules under t HIA are:

- you (custodian) can only disclose without consent to the people listed in section 35;
- you must use the most anonymous health information possible to do the job: section 57;
- you must use the least amount of health information possible to do the job: section 58;
- you must protect the health information in your custody: section 60;
- you must adopt policies and procedures relating to confidentiality and security of health information: section 6
- you must prepare privacy impact assessments respecting the information you hold: section 64. Summaries of the privacy impact assessments are available to the public.

The Commissioner added that given the value of section 59 compared to the costs of implementing it (f example, having a physician sit down with an individual to deliver a 10 to 15 minute information package to obta consent), the decision had been made to proceed without it.

In facilitating a province-wide electronic health record (EHR), practical experience made it apparent that getti consent from Albertans was going to be difficult and costly. The experience with the Pharmaceutical Informati Network (PIN) trials was that the majority of people asked readily consented to their information being put in

database and disclosed by electronic means.

The Commissioner believes that it is possible to inform people in a meaningful way, of all the specific disclosures which might ever be made of their health information, by electronic means. Even without section 59, disclosure of health information is limited by the terms of the HIA.

The Commissioner noted that Section 58(2) requires custodians who hold health information to take into consideration the individuals' wishes with respect to disclosure of the information along with any other factors the custodian considers relevant. For example, PIN enables specific pieces of information to be masked so that someone viewing the record knows that there is some information there, but does not know what it is.

Albertans will be relying upon health care professionals to collect, use and disclose their personal health information strictly in accordance with the rules in the HIA. Accordingly, the kinds of disclosure listed in the HIA should now be regarded as closed. That is, no future change should be made to the HIA to allow disclosures of health information to anyone not presently listed, particularly by allowing access to an electronic health record.

The Commissioner urged the Government of Alberta to inform Albertans about the electronic health record and how it will work. It should also inform them of the rules in the HIA and of their ability to have complaints investigated by the Office of the Information and Privacy Commissioner.

The Office of the Information and Privacy Commissioner will receive and investigate complaints that personal health information is not being dealt with according to the HIA. It must be noted that the amendment to section 60 adds an additional mechanism for ensuring that custodians implement appropriate protections for the entire life cycle of the EHR. This amendment provides the OIPC with an additional basis for imposing security and system access controls and auditing of the EHR.

The OIPC will continue to receive and review privacy impact assessments that are required to be completed for a new health system or practice, or change to an existing health system or practice.

COMMISSIONER COMMENTS ON THE PHYSICIAN OFFICE SYSTEM PROGRAM (POSP) AND HEALTH INFORMATION ACT (HIA) COMPLIANCE

In March 2003, the Commissioner wrote to Alberta Health and Wellness, the Alberta Medical Association and the College of Physicians and Surgeons to offer his comments on the issue of compliance with the *Health Information Act* as physicians make use of the Physician Office System Program:

"I accepted the overarching Physician Office System Program (POSP) Privacy Impact Assessment (PIA) on March 22, 2002.

The POSP provides assistance to Alberta physicians to automate their offices. I view this program as a key building block toward development of Alberta's electronic health record. In my view, the success of such programs will partly depend on the diligence of involved parties in assessing risks to privacy and taking appropriate steps to protect against these risks. The PIA is the required tool that will assist a physician in ensuring that proper safeguards are in place to protect health information in an electronic environment.

My office has reviewed and commented on a number of POSP PIAs submitted by physicians. I wanted to take this opportunity to provide you with my observations on steps taken to address privacy and security matters related to the POSP, and to encourage you to continue your strong efforts in this regard.

I am very pleased to see the cooperation and commitment shown by the POSP, AMA and College of Physicians & Surgeons to promote and encourage physicians to complete PIAs and meet *Health Information Act* policy and procedural requirements. While I suspect that I am not receiving the number of PIAs from physicians that I should be, I applaud your efforts toward increasing awareness of this important obligation within the physician community in Alberta.

Your actions to provide physicians and electronic medical record vendors with specific information to assist physicians in meeting HIA obligations demonstrates your commitment to ensuring the privacy and security of Albertans' health information. Thank you."

OVER THE PAST YEAR, THE COMMISSIONER HAS COMMENTED ON A NUMBER OF INITIATIVES AFFECTING GENERAL PRIVACY ISSUES AT A NATIONAL LEVEL:

COMMISSIONER SUPPORTS ANTI-VOYEURISM LEGISLATION

In a submission to Federal Justice Minister Martin Cauchon as part of the Public Consultation on Voyeurism, Information and Privacy Commissioner Frank Work reiterated his Office's support of anti-voyeurism legislation.

In his letter sent in September 2002, Work said he supports "in principle the initiative to amend the *Criminal Code* and create offences to deal with sexually-motivated privacy invasion (voyeurism) that may be committed using new surveillance and recording technologies."

The Department of Justice Canada invited interested Canadians and stakeholders to comment on whether new offences should be created to deal with voyeurism. Work was responding to a Department of Justice Canada report called "Voyeurism as a Criminal Offence: A Consultation Paper 2002."

Work is concerned with the growing use of surveillance technology, particularly the proliferation of video recording devices. While the Commissioner's mandate is limited to the public sector, recent high-profile cases reported in the media prompted Work to publicly respond and support Justice Canada's initiative.

COMMISSIONER PUBLICLY RELEASES COMMENTS ON LAWFUL ACCESS CONSULTATION

In October 2002, the Information and Privacy Commissioner released his comments to Justice Minister Martin Cauchon in response to the Minister's call for comments on proposals to amend the Criminal Code and other federal Acts that regulate access to telecommunications for law enforcement purposes.

The Commissioner urged the Justice Minister not to draft provisions that would require Internet Service Providers (ISPs) to retain all traffic data and content for a specific period solely for the purposes of a hypothetical law enforcement action. He believes such measures would be overbroad and could seriously harm Canadian privacy and the business of Canadian-based ISPs. Canadians could flee to ISPs based outside of Canada to preserve their privacy, and seriously damage the industry that underpins domestic electronic commerce.

COMMISSIONER COMMENTS ON THE CANADA CUSTOMS AND REVENUE AGENCY AIR TRAVELLER SURVEILLANCE DATABASE

In October 2002, the Information and Privacy Commissioner released his comments on the Canada Customs and Revenue Agency Air Traveller Surveillance Database ("CCRA Surveillance Database").

The CCRA wants an enforcement database that will collect and store the personal data of every person entering Canada from a foreign destination by air travel. That data could be retained for six years.

In his letter to Elinor Caplan, Minister of National Revenue, the Commissioner identified the vulnerability of a mammoth database, such as the CCRA Surveillance Database, is that it could be rendered useless by persons using aliases, false identity papers, and circuitous travel plans.

The Commissioner urged the Minister to reconsider the CCRA Surveillance Database and revert to the earlier plan for a targeted and proportional approach to surveillance that was discussed with the Federal Privacy Commissioner.

COMMISSIONER COMMENTS ON DNA DATA BANK LEGISLATION

In October 2002, the Commissioner wrote to federal Justice Minister Martin Cauchon in response to the Minister's consultation paper on the DNA Data Bank Legislation. The Commissioner notes that the consultation is intended to support the future Parliamentary review of that legislation which is scheduled for June of 2005.

The Commissioner cautioned, "While genetic information such as DNA profiles is essential for law enforcement purposes, privacy safeguards are of crucial importance. The *DNA Identification Act* involves the mandatory collection of DNA samples without consent. This drastic curtailment of the right of the individual to control information, not only about themselves, but also about their whole family, must only be applied in the most pressing cases."

The Commissioner urged the Minister to create independent oversight of the Data Bank.

SUMMARIES:

>>> *Selected Orders and Investigation Reports*

(Released between April 1, 2002 and March 31, 2003)

INTERPRETATION OF LEGISLATION

Under the Acts, the Commissioner is an officer of the Legislature and independent from government. As such, one of the Commissioner's key responsibilities is to provide for independent reviews of decisions made by public bodies and custodians and the resolution of complaints under the FOIP Act and the HIA. The following are some of the significant Orders and Investigation Reports issued that help interpret the Acts.

Commissioner orders pharmacists and pharmacies not to disclose a health services provider's first and last name, unless consent is obtained
— Order H2002-003

The Commissioner initiated an investigation under section 84(a) of the *Health Information Act* ("HIA") of the issue: Does the HIA permit Alberta pharmacists and pharmacies to disclose health services provider information to IMS HEALTH, Canada Limited ("IMS")? After a public hearing, the Commissioner found that Alberta pharmacists and pharmacies were disclosing to IMS up to 37 data elements that pertained to prescribing activity, including a health services provider's first and last name. The Commissioner found that the disclosure of the provider's first and last name in the context of other 35 data elements is prohibited under the HIA, unless the consent of the health services provider is obtained prior to the disclosure as required under the HIA.

The Commissioner ordered Alberta pharmacists and pharmacies not to disclose to IMS a health services provider's first and last name in the context of the 35 other data elements, unless that health services provider's consent was obtained as stipulated under the Act. Under section 82(2) of the HIA, Alberta pharmacists and pharmacies must not take any steps to comply with the Commissioner's order until the 45-day period for bringing an application for judicial review ends. The Commissioner allowed Alberta pharmacists and pharmacies six months to fully comply with his Order.

Note: On April 22, 2003, IMS Health Canada, Limited served the Office of the Information and Privacy Commissioner with notice of judicial review of Order H2002-003. As provided by section 82(4) of the *Health Information Act*, Order H2002-003 is stayed until the Court of Queen's Bench deals with the judicial review application.

Commissioner allows Alberta Municipal Affairs and Town of Ponoka to disregard access requests
— Section 55 Decision

For the first time in the history of Alberta's *Freedom of Information and Protection of Privacy Act* (the "FOIP Act"), the Information and Privacy Commissioner has allowed two public bodies to disregard a person's access requests made under the FOIP Act. In two recent decisions under section 55 of the FOIP Act, then Acting Commissioner Frank Work said, "...[B]ecause of the repetitious or systematic nature of the Applicant's access requests, those access requests amounted to an abuse of the right to make those access requests." Consequently, the Acting Commissioner allowed applications by both Alberta Municipal Affairs and the Town of Ponoka to disregard the person's access requests.

Commissioner Releases Report on Adoption Website
— F2003-IR-001

The Commissioner issued a report on Alberta Children's Services adoption website. The report found that Children's Services had the authority under the *Freedom of Information and Protection of Privacy Act* (FOIP Act) to disclose the children's personal information on the website for the purpose of finding homes for children who are available for adoption.

The initial descriptions of the children contained more personal information than was necessary for the operation of the website, but the revised descriptions were in compliance with the FOIP Act. In response to concerns raised by the Commissioner, Children's Services conducted an evaluation and provided the Commissioner with a report of the findings of its three month review.

Additionally, the Department has asked its social workers to confirm that every child was aware that he or she was available for adoption and was on the website.

Social workers also ensured that, where appropriate, others involved in caring for the children were informed that a child will be on the website and be asked to inform the Department should any problem arise.

The Department has reported that it will ask children under 12 years of age if they have any objection to their personal information being placed on the website, and have given their assurance that if any child raises any objection, his or her personal information will not be placed on the website.

Commissioner orders Alberta Mental Health Board to disclose patient record
— H2002-001

The Commissioner ordered the Alberta Mental Health Board to disclose an Applicant's patient record to the Applicant. The Applicant applied under the *Health Information Act* (the "HIA") to the Alberta Mental Health Board for access to his entire patient record, which involved health information from two involuntary admissions.

The Alberta Mental Health Board refused access, citing the following exceptions to disclosure contained in the HIA:

- health information about other individuals (section 11(2)(a))
- disclosure of health information that could reasonably be expected to result in immediate and grave harm to the Applicant, a threat to the health or safety of another individual or a threat to public safety (section 11(1)(a)(i), (ii) and (iii))
- disclosure that could reasonably lead to the identification of a person who provided health information in confidence (section 11(1)(b))
- disclosure that could reasonably be expected to prejudice the use or results of diagnostic tests or assessment (section 11(1)(e))

The Commissioner found that only a limited amount of information met the requirements of section 11(2)(a), section 11(1)(a)(ii) (threat to the mental or physical health or safety of another individual), section 11(1)(b) and section 11(1)(e). The Commissioner upheld the decision of the Alberta Mental Health Board not to disclose that information to the Applicant. However, none of the information met the requirements of section 11(1)(a)(i) (harm to the Applicant) or section 11(1)(a)(iii) (threat to public safety). Therefore, except for the limited amount of information that was not to be disclosed, the Commissioner ordered the Alberta Mental Health Board to disclose the 536 pages of records to the Applicant.

Commissioner decides that FOIP Act applies to trial and docket sheets in the custody of Alberta Justice
— F2002-022

The Commissioner decided that the *Freedom of Information and Protection of Privacy Act* (the "FOIP Act") applied to trial and docket sheets, also known as appearance lists, which are in the custody of Alberta Justice. The appearance lists are created by the courts and posted in prominent public places in various courthouses. The Commissioner said that the purpose of the appearance lists is to inform accused persons about the charges they face and to direct accused persons to the appropriate courtroom to speak to those charges. Therefore, the Commissioner decided that the appearance lists were "court administration records" to which the FOIP Act applied. Since Alberta Justice had custody of the appearance lists, Alberta Justice must process an Applicant's access request for the appearance lists.

Note: On October 8, 2002, Alberta Justice, the Public Body in Order F2002-002, served the Office of the Information and Privacy Commissioner with notice of judicial review. As provided by section 74(4) of the FOIP Act, Order F2002-022 is stayed until the Court of Queen's Bench deals with the judicial review application.

U of A properly refused to disclose third party personal information supplied in confidence
— F2002-030R

Former Information and Privacy Commissioner, Bob Clark, decided that the University of Alberta must give a professor access to information regarding her removal from a graduate committee. The Order, 2000-032, concerned an access request by a University of Alberta professor, made under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act), to the University of Alberta. In that request, the professor requested access to all relevant materials concerning a decision by one of the University of Alberta faculties to remove her from a graduate committee. The request specifically identified, among others, certain records authored by three former graduate students as well as the notes and chronological summaries about the case prepared by the former associate dean at the faculty.

This Order was the subject of Judicial Review in 2002. The Order was quashed in Queen's Bench Action No. 0103-13192 and was returned to the Commissioner for reconsideration.

After reviewing the Court of Queen's Bench decision on judicial review of Order 2000-032, and after reviewing the submissions and rebuttals of both parties, Commissioner Frank Work confirmed the University of Alberta's decision to not disclose the third party information sought by the professor under the FOIP Act.

Commissioner upholds decision not to disclose health information of deceased minor
— H2002-004

Applicants made requests to the David Thompson Health Region and to Dr. S. Beshai ("the Custodians") under the *Health Information Act*, for access to hospital medical records of a deceased minor. One of the Applicants was the biological father of the deceased and the other Applicant was his current wife. The biological parents were divorced and had joint custody of the deceased minor at the time of her death. The Custodians refused to disclose any health information to the Applicants.

The Commissioner found that the Applicants were not personal representatives of the deceased under the HIA. Additionally, the Act does not allow Custodians to provide access to or disclosure of health information of deceased minors even to a personal representative. The Commissioner recommended that the Legislature amend the Act to authorize Custodians to provide access to and disclosure of the health information of deceased minors. This amendment occurred during the Sping Session.

Investigation finds that Aspen Regional Health Authority # 11 did not maintain administrative safeguards to protect confidentiality of health information
— H2002-IR-001

The Commissioner released an Investigation Report concerning the theft of computers containing individually identifying health information from HealthWise HomeCare Inc, an affiliate of both Capital Health Region and Aspen Regional Health Authority # 11.

The Commissioner's Office determined that the *Health Information Act* (HIA) requires a Regional Health Authority to maintain administrative safeguards to protect the confidentiality of health information, and to ensure that its affiliates are aware of and adhere to these safeguards.

The Commissioner's Office found that Aspen Regional Health Authority # 11 did not establish or adopt policies and procedures, and therefore did not maintain administrative safeguards required by the HIA.

The Commissioner's Office found that Capital Health Region has developed corporate policies and procedures related to the protection of confidentiality of health information, but had not completed corporate policies and procedures related to the security of health information. As such, the Commissioner's Office found that Capital Health Region had partly maintained administrative safeguards as required by the HIA.

The Commissioner's Office found that HealthWise HomeCare Inc. had taken reasonable steps to protect health information.

Investigation finds that a pharmacy and a pharmacist contravened the Health Information Act
— H2002-IR-002

The Commissioner released an Investigation Report concerning the improper disclosure of a client's detailed prescription drug history and the lack of safeguards to protect her privacy. The Commissioner's Office determined that the Medicine Shoppe at #312, 401 – 9th Avenue, Calgary, and one of its pharmacists, were required to obtain the individual's consent before they provided a computer printout of a client's prescription history to her estranged husband.

The Office also determined that the pharmacy and the pharmacist did not maintain administrative safeguards to protect the confidentiality of health information and the privacy of its clients, as required by the *Health Information Act* (HIA). The pharmacy and the pharmacist have accepted the recommendation that they develop a comprehensive plan for implementing the HIA and that they develop and adopt policies and procedures that reflect the provisions and requirements of the HIA.

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

Financial Statements

As at March 31, 2003

Office of the Information and Privacy Commissioner

FINANCIAL STATEMENTS

AS AT MARCH 31, 2003

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AUDITOR GENERAL
Alberta

AUDITOR'S REPORT

To the Chairman, Select Standing Committee on Legislative Offices

I have audited the statement of financial position of the Office of the Information and Privacy Commissioner as at March 31, 2003 and the statements of changes in net liabilities, operations, and changes in financial position for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Office as at March 31, 2003 and the results of its operations and the changes in its financial position for the year then ended in accordance with Canadian generally accepted accounting principles.

Fred J. Dunn FCA
Auditor General

Edmonton, Alberta
June 27, 2003

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31, 2003

	2003	2002
ASSETS		
Current assets		
Cash	$ 250	$ 250
Accounts receivable	803	–
Prepaid expenses	22,734	3,581
Total current assets	23,787	3,831
Capital assets (Note 4)	$ 327,795	$ 266,311
	$ 351,582	$ 270,142
LIABILITIES AND NET LIABILITIES		
Current liabilities		
Accounts payable	$ 228,721	$ 167,408
Accrued vacation pay	207,954	168,670
Total current liabilities	436,675	336,078
Net liabilities	(85,093)	(65,936)
	$ 351,582	$ 270,142

The accompanying notes and schedule are part of these financial statements.

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

STATEMENT OF CHANGES IN NET LIABILITES
FOR THE YEAR ENDED MARCH 31, 2003

	2003	2002
Net liabilities at beginning of year	$ (65,936)	$ (80,906)
Net operating results	(2,914,322)	(2,662,365)
Net transfer from general revenues	2,895,165	2,677,335
Net liabilities at end of year	$ (85,093)	$ (65,936)

The accompanying notes and schedule are part of these financial statements.

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

STATEMENT OF OPERATIONS
FOR THE YEAR ENDED MARCH 31, 2003

	2003		2002
	Budget (Note 6)	Actual	Actual
REVENUES			
Contribution from Infrastructure for accommodation provided at no charge		$ 132,290	$ 142,036
Contribution from Innovation and Science for telephone provided at no charge		23,060	24,309
Shared Services – Office of the Ethics Commissioner		14,672	10,559
Other Revenue		393	–
Prior Year Expenditure Refund		–	3,666
Total Revenue		170,415	180,570
EXPENSES			
Voted			
Salary, wages, and employee benefits		2,447,830	2,124,571
Supplies and services		489,111	540,374
	$ 3,220,000	$ 2,936,941	$ 2,664,945
Non-budgetary			
Accomodation and telephone costs		155,350	166,345
Capitalization of assets expensed as supplies		(168,004)	(98,968)
Amortization of capital assets		105,368	83,062
Shared Services – Office of the Ethics Commissioner		14,672	10,559
Loss on disposal of capital assets		1,126	–
		108,512	160,998
Valuation adjustment			
Provision for vacation pay		39,284	16,992
Total Expenses		3,084,737	2,842,935
Net operating results		$(2,914,322)	$(2,662,365)

The accompanying notes and schedule are part of these financial statements.

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

STATEMENT OF CHANGES IN FINANCIAL POSITION
FOR THE YEAR ENDED MARCH 31, 2003

	2003	2002
Operating transactions		
Net operating results	$ (2,914,322)	$ (2,662,365)
Add non-cash charges		
Amortization of capital assets	105,368	83,062
Loss on disposal of capital assets	1,126	–
	(2,807,828)	(2,579,303)
(Increase) decrease in accounts receivable	(803)	329
(Increase) in prepaid expense	(19,153)	(3,211)
Increase (decrease) in accounts payable	61,313	(17,791)
Increase in accrued vacation pay	39,284	16,992
Cash used by operating transactions	(2,727,187)	(2,582,984)
Investing transactions		
Disposal of capital assets	26	4,617
Acquisition of capital assets	(168,004)	(98,968)
Cash used in investing transactions	(167,978)	(94,351)
Financing transactions		
Net transfer from general revenues	$ 2,895,165	$ 2,677,335
Net cash provided	–	–
Cash, beginning of year	250	250
Cash, end of year	$ 250	$ 250

The accompanying notes and schedule are part of these financial statements.

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED MARCH 31, 2003

Note 1 Authority

The Office of the Information and Privacy Commissioner (the "Office") is operated under the authority of the Freedom of Information and Protection of Privacy Act. The net cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Select Standing Committee on Legislative Offices.

Note 2 Purpose

The Information and Privacy Commissioner has a broad range of responsibilities and powers, including protecting the integrity of the Freedom of Information and Protection of Privacy Act and the Health Information Act.

The Information and Privacy Commissioner ensures the protection of rights to access to records in the custody and control of public bodies and custodians as set out in legislation and will ensure that personal information is collected and disclosed or used by public bodies and custodians according to the manner and purposes set out in legislation.

Note 3 Summary of Significant Accounting Policies and Reporting Practices

These financial statements are prepared in accordance with Canadian generally accepted accounting principles:

a) Reporting Entity

The reporting entity is the Office of the Information and Privacy Commissioner, for which the Information and Privacy Commissioner is responsible.

The Office operates within the General Revenue Fund (the "Fund"). The Fund is administrated by the Minister of Finance. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund. Net transfers from general revenues is the difference between all cash receipts and all cash disbursements made.

Note 3 Summary of Significant Accounting Policies and Reporting Practices (continued)

b) Basis of Financial Reporting

Revenues
All revenues are reported on the accrual basis of accounting.

Expenses
Expenses represent the costs of resources consumed during the year on the Office's operations.

Valuation Adjustments
Valuation adjustments include changes in the valuation allowances used to reflect financial assets and liabilities at their net recoverable or other appropriate value. Valuation adjustments also represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

Assets
Amortization is calculated on a straight-line basis, over the estimated useful lives of the assets as follows:

Computer hardware and software	3 years
Furniture and other office equipment	10 years

The Office follows government budgetary practices which allow funds from an operating budget to be used to purchase capital assets costing less than $15,000. These purchases are included in expenses on the statement of operations, but are then removed from expenses through a non-budgetary adjustment and are capitalized and amortized over their useful lives.

Liabilities
Liabilities include all financial claims payable by the Office at fiscal year end.

Net Liabilities
Net liabilities represents the difference between the value of assets held by the Office and its liabilities.

Valuation of Financial Assets and Liabilities
Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, accounts receivable, accounts payable and accrued vacation pay are estimated to approximate their book values, due to the short-term nature of these items.

Note 4 Capital Assets

	2003			2002
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computer hardware and software	$ 407,099	$ 253,735	$ 153,364	$ 116,417
Furniture and other office equipment	254,138	79,707	174,431	149,894
	$ 661,237	$ 333,442	$ 327,795	$ 266,311

Note 5 Defined Benefit Plans

The Office participates in the multiemployer pension plans, Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multiemployer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of $197,419 for the year ending March 31, 2003 (2002 $181,354).

At December 31, 2002, the Management Employees Pension Plan reported a deficiency of $301,968,000 (2001-surplus $5,338,000) and the Public Service Pension Plan reported an actuarial deficiency of $175,528,000 (2001-actuarial surplus $320,487,000). At December 31, 2002, the Supplementary Retirement Plan for Public Service Managers had an actuarial surplus of $6,472,000 (2001-actuarial deficiency $399,000).

The Office also participates in a multiemployer Long Term Disability Income Continuance Plan. At March 31, 2003, the Management, Opted Out and Excluded Plan reported an actuarial deficiency of $3,053,000 (2002-$2,656,000). The expense for this plan is limited to employer's annual contributions for the year.

Note 6 Budget

Expenses	
2002-2003 budget[a]	$ 3,220,000
2002-2003 actual expenses (excluding valuation adjustments)	2,936,941
2002-2003 surplus (excluding valuation adjustments)	$ 283,059

(a) Legislative Assembly Estimates released on March 19, 2002

Note 7 Lease Obligations and Commitments

The Office leases certain equipment under operating leases that expire on various dates to 2005. The aggregate amount payable for the unexpired terms of these leases are as follows:

2004	$ 10,056
2005	$6,621
	$ 16,677

Note 8 Comparative Figures

The 2002 figures have been re-classified to conform to 2003 presentation.

Note 9 Approval of Financial Statements

These financial statements were approved by the Information and Privacy Commissioner.

SCHEDULE 1

OFFICE *of the* INFORMATION *and* PRIVACY COMMISSIONER

SALARY AND BENEFITS DISCLOSURE
FOR THE YEAR ENDED MARCH 31, 2003

	2003			2002
	Salary	Benefits and Allowances[2]	Total	Total
Senior official				
Information and Privacy Commissioner[1]	$157,629	$ 52,198	$209,827	$167,906
Executive				
Director and General Counsel[3]	$ –	$ –	$ –	$ 70,272

(1) F. Work held the position of Acting Information and Privacy Commissioner from April 1 to May 14, 2002. He was appointed Information and Privacy Commissioner effective May 15, 2002. His salary of $157,629 includes regular base pay, acting pay and bonus. An automobile allowance of $1,532 (2002: $1750) for the period April 1 to October 3, 2002 has been included in the Benefit and Allowance calculation. An automobile was provided from October 4, 2002 to March 31, 2003 but not included in the benefit and allowance calculation.

(2) Employer's share of all employee benefits and contributions or payments made on behalf of employees including pension, Alberta Health Care, extended medical and dental coverage, group life insurance, long-term disability plan, professional memberships, tuition and conference fees.

(3) The Director and General Counsel position was vacant for the period April 1, 2002 to March 31, 2003.

APPENDIX A

>>> *Definitions*

The following is a list of meanings of terms or abbreviations that are used throughout this Annual Report. Additional definitions can be found in Section 1 of the Freedom of Information and Protection of Privacy Act and Section 1 of the Health Information Act.

The Acts means the *Freedom of Information and Protection of Privacy (FOIP) Act* and the *Health Information Act* (HIA).

Affected Person means a person whose interests are so affected by the outcome of the request for review, that the Commissioner deems the person should have the same rights during the inquiry as the person who requested the review and the public body.

Affiliate means an individual employed by a "custodian," a person who performs services for the custodian as an appointee, volunteer or student or under a contract or agency relationship with the custodian, and a health services provider who has the right to admit and treat patients at a hospital as defined in the *Hospitals Act*.

Applicant means the person who made a request for access from a public body or custodian or whose information is affected by the public body's and custodian's actions.

Commissioner means the Information and Privacy Commissioner.

Complainant means a person who makes a formal request that the IPC investigate a public body or custodian on one of the grounds listed in section 53(2) or 65(3) of the FOIP Act and sections 72(3) and 85(e) of the HIA.

Confidential Information means information which should not be available to the public.

Custodian Custodians, under the HIA, include the Minister of Alberta Health and Wellness and health service providers paid by the Alberta Health Care Insurance Plan. A complete list of custodians is found in Section 1 of the HIA.

Data Matching means the creation of individually identifying health information by combining individually identifying or non-identifying health information or other information from 2 or more electronic databases, without the consent of the individuals who are the subjects of the information.

Disclosure means the act of providing access to records or information.

FOIP Act refers to the *Freedom of Information and Protection of Privacy Act*.

FOIP Coordinator means the person delegated by the head of a public body to deal with matters related to the *Freedom of Information and Protection of Privacy Act*.

Head of Public Body means the minister of a government office, department, or branch, the chief executive officer, or someone else designated to preside over the public body.

Health Information means diagnostic, treatment and care information; health services provider information; and registration information.

Health Service means a service that is provided to an individual as outlined in Section 1 of the HIA.

HIA refers to the *Health Information Act*.

Inquiry means a quasi-judicial process where the Commissioner decides issues of fact and law to resolve a review or complaint, which results in an Order being issued.

Intervenor means a person, group or organization that does not have status under the Acts, but has an interest in an issue being decided at an inquiry and is invited by the Commissioner to make a submission or present evidence.

Investigation means the procedure for responding to complaints under section 53(2)of the FOIP Act and section 85(1) of the HIA, monitoring compliance with the FOIP Act under section 53(1)(a), and compliance with the HIA under section 84(a), and whistleblower' disclosure under section 82 of the FOIP Act and section 83 of the HIA.

Investigation Report means the document written to summarize the findings of an investigation.

Judicial Review means an application made to the Court of Queen's Bench of Alberta for review of a Commissioner's Order.

Mediation means the process of facilitating discussion between parties with the goal of negotiating a mutually accepted resolution of the dispute.

OIPC means the Office of the Information and Privacy Commissioner.

Order means a binding decision made by the Commissioner.

Person means an individual, a corporation, or any other entity.

PIPA refers to the Personal Information Protection Act.

Privacy Impact Assessment (PIA) as outlined in Section 64(1) of the HIA, each custodian must prepare and submit (as outlined in 64(2)) a PIA that describes how proposed administrative practices and information systems relating to the collection, use and disclosure of individually identifying health information may affect the privacy of the individual who is the subject of the information.

Public Body means a body defined by the FOIP Act.

Record means recorded information in any form, including books, documents, maps, drawings, photographs, letters, vouchers, and papers.

Review means the procedures described in Part 4 of the FOIP Act and Part 7 of the HIA which are followed by the IPC upon receiving a request for review.

Third Party means a person other than the applicant or public body.

Whistleblower means an employee of a public body who is notifying the Commissioner, in confidence, of some act or practice of the public body.

APPENDIX B

>>> FOIP Tables

FOIP GRAPH 1: *Cases Initiated by Public Bodies and Cases Initiated by the Public*

Applicant Type	Percentage	Number of Cases
Public Bodies	17%	44
Members of the Public	83%	217
TOTAL	100%	261

FOIP GRAPH 2: *Total Case Resolutions 2002-2003: By Resolution Type*

Resolution Type	Percentage	Number of Cases
Mediation/Investigation	79%	215
Order	12%	33
Other	9%	23
TOTAL	100%	271

The Other Category of Cases included cases resolved by Commissioner's Decision (e.g. Privacy Impact Assessments (PIAs), Request to Disregard FOIP Request, Investigation Generated by Commissioner)

FOIP GRAPH 3: *Commissioner's Orders Issued to Public Bodies*

Order Type	Percentage	Number of Cases
Decision Upheld	67%	22
Decision Partially Upheld	21%	7
Decision Overturned	12%	4
TOTAL	100%	33

FOIP GRAPH 4: *Complaints Closed 2002-2003: By Resolution Type*

Closure Type	Percentage
Investigation	90%
Order	7%
Other	3%
TOTAL	100%

Closure Type	Total
Investigation	79
Order	6
Other	3
TOTAL	88

Note: The "Investigation" closure type includes the following case types: Withdrawn by Complaint/Applicant, Investigation Report Public, Investigation Complete and Closed in Abeyance. Closure types listed under "Other" category include: Cancel-File Created in Error, Non-Juristictional, and Insufficient Information Provided.

FOIP GRAPH 5: *Complaints Closed 2002-2003: By Duration*

Case Type	90 days or less	91-180 days	More than 180 days	Total
Complaint	17%	50%	33%	100%

Resolution Type	90 days or less	91-180 days	More than 180 days	Total
Complaint Closed	14	42	23	79
Other	1	2	0	3
Order	0	0	6	6
TOTAL	15	44	29	88

Note: Resolution type "Complaint Closed" includes the following types: Withdrawn by Complaint/Applicant, Investigation Report Public, Investigation Complete and Closed in Abeyance. Resolution types listed under "Other" category include: Cancel-File Created in Error, Non-Juristictional, and Insufficient Information Provided.

FOIP GRAPH 6: *Requests for Review Closed 2002-2003: By Resolution Type*

Closure Type	Percentage Total
Mediated	78%
Order	20%
Other	2%
TOTAL	100%

Closure Type	Total
Mediated	104
Order	27
Other	2
TOTAL	133

Note: The "mediated" closure type includes the following case types: Cases Closed in Abeyance, Mediated and Withdrawn by Applicant. Closure types captured under the term "Other" include: Case Not Approved and Non Juristictional Cases.

FOIP GRAPH 7: *Number of Requests for Reviews Closed 2002-2003: by Duration*

Case Type	90 days or less	91-180 days	More than 180 days	Total
Requests for Reviews	29%	32%	39%	100%

Closure Type	90 days or less	91-180 days	More than 180 days	Total
Mediated	37	43	24	104
Other	2	0	0	2
Order	0	0	27	27
TOTAL	39	43	51	133

Note: The following closure types are captured under the term "Mediated" (Cases Closed in Abeyance, Mediated and Withdrawn by Applicant). Closure types captured under the term "Other" include: Case Not Approved and Non Juristictional Cases.